

Case Summary

Alphonzo Easley appeals his sentence for Class B felony robbery. We affirm.

Issue

Easley raises one issue, which we restate as whether he was properly sentenced.

Facts

On March 15, 2006, Easley robbed a convenience store while armed with a handgun. On April 13, 2006, the State charged him with Class B felony robbery. The State eventually amended the information to include an allegation that Easley was an habitual offender. On October 19, 2006, Easley pled guilty as charged. Pursuant to the plea agreement his sentence was capped at twenty years. At the conclusion of the sentencing hearing, the trial court sentenced Easley to ten years on the Class B felony conviction, enhanced by an additional ten years based on his habitual offender status. Easley now appeals.

Analysis

Easley argues that his sentence is inappropriate because the trial court failed to consider certain mitigators. Initially, we point out that the trial court did not issue a sentencing statement. Recently, our supreme court addressed whether trial courts are required to issue sentencing statements under Indiana's new sentencing scheme and concluded that they are required.¹ Anglemyer v. State, No. 43S05-0606-CR-230, slip op.

¹ Effective July 1, 2007, a trial court shall issue a statement of its reasons for selecting the sentence that it imposes. Ind. Code § 35-38-1-1.3.

at 9 (Ind. June 26, 2007). Our supreme court also determined that the failure to issue a sentencing statement may amount to an abuse of discretion. Id. at 10. Thus, we conclude that by failing to issue a sentencing statement here, the trial court abused its discretion. See Windhorst v. State, 49S04-0701-CR-32, slip op. at 4 (Ind. June 26, 2007).

Where a trial court erred in sentencing the defendant, we may remand for a clarification or new sentencing determination or we may exercise our authority to review and revise the sentence. Id. at 4-5. Here, we decline remand for a new sentencing determination and, instead, exercise our authority to review and revise the sentence under Indiana Appellate Rule 7(B) as Windhorst permits. See id. Indiana Appellate Rule 7(B) allows us to revise a sentence that is inappropriate in light of the nature of the offense and the character of the offender. After such consideration, we conclude Easley's twenty-year sentence is appropriate.

In terms of the nature of the offense, Easley's crime was not extraordinary. He walked into a convenience store, pulled out a gun wrapped in a brown plastic grocery bag, demanded money from the cashier, and when the cashier declined to give him money, Easley took the money out of the cash register drawer himself.

Regarding the character of the offender, Easley has an extensive criminal history. Since 1981, he has been arrested twenty-six times. Not including the 1986 Class B felony robbery conviction and the 1997 Class D felony battery conviction used to support the habitual offender enhancement, Easley has misdemeanor convictions for conversion, operating a vehicle while intoxicated, public intoxication, possession of marijuana, battery, operating a vehicle while never receiving a license, driving while suspended, and

resisting law enforcement. Easley also has additional felony convictions for theft, battery, and possession of marijuana. Further, at the time the pre-sentence investigation (“PSI”) report was compiled, murder charges were pending against Easley. Based on this criminal history we cannot conclude that Easley led a law-abiding life.

Further, although Easley pled guilty, his sentence was capped at twenty years. Without such a cap, Easley faced a possible sentence of fifty years. He received a substantial benefit by pleading guilty. Easley also argues that his incarceration would result in hardship to his dependents—the two children who lived with Easley’s mother. However, the PSI shows that only one of Easley’s children was under eighteen. Moreover, there is no indication that Easley provided extensive support, either financial or emotional, to his children. At the sentencing hearing, Easley’s mother testified, “He’s free-hearted and he was good to his children when he was able.” Tr. p. 23. This does not show that Easley’s incarceration would result in undue hardship to his dependents. Finally, Easley’s mother testified that Easley had been using drugs. This testimony was corroborated by Easley’s own testimony that he had a problem with drugs.

The trial court abused its discretion by failing to issue a sentencing statement. Nevertheless, when considering the nature of the offense and the character of the offender, including Easley’s extensive criminal history and drug abuse, we conclude that his twenty-year sentence is not inappropriate.

Conclusion

Given the nature of the offense and the character of the offender, we cannot conclude that Easley’s twenty-year sentence is inappropriate. We affirm.

Affirmed.

KIRSCH, J., and ROBB, J., concur.